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Federal Emergencies Act and Orders – Summary

What: Under the Emergencies Act, the Government of Canada has declared that a public order emergency exists throughout Canada and necessitates special temporary measures for dealing with the emergency. These measures include Emergency Measures Regulations and an Emergency Economic Measures Order.

What is the Emergencies Act?

- Authorizes the Federal Government to take special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof.
- Deals with security emergencies of five different types: (1) national emergencies; (2) public welfare emergencies; (3) public order emergencies; (4) international emergencies; and (5) war emergencies.
- Under the Act, Cabinet orders and regulations must be reviewed by Parliament, meaning that Cabinet cannot act on its own.
- The Act also notes that government actions are subject to the *Canadian Charter of Rights and Freedoms.*

Timeline:

- **In Force:** February 15, 2021
- **Expiration Date:** Temporary – To Be Determined

Purpose:

Emergency Measures Regulations	Emergency Economic Measures Order
1) Designate critical infrastructure and protected places. 2) Prohibit public assembly expected to lead to a breach of the peace (unlawful assembly). 3) Prohibit a person from causing a minor (person under 18) to be involved in such an assembly. 4) Prohibit entry in Canada by a foreign national for the purposes of participating in such an assembly. 5) Direct that persons make available essential goods and services if directed to do so by the Commissioner of the RCMP.	1) Prohibit individuals and entities from engaging in financial transactions supporting activities prohibited by the Emergency Measures Regulations.

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How:

Jurisdiction

- **Jurisdiction:** These measures are not intended to supersede any existing legislation, but rather to supplement existing enforcement tools and fill gaps in legislative authorities at all three levels of government (federal, provincial/territorial, and municipal) needed during an emergency to help police effectively:
    1) Regulate and prohibit public assemblies that lead to a breach of the peace (other than lawful advocacy, protest, or dissent); and
    2) Limit the funding of such assemblies.

- The federal government advises these new tools and resources are intended to be used as a measure of last resort. Police independence and discretion regarding operational decisions remain unchanged. The Federal Government has confirmed that these measures do not change the authorities or mandates of the POJ but rather provide new tools to supplement gaps where they exist.

- These measures must act in conjunction with the *Charter of Rights and Freedoms*. Fundamental rights cannot be limited or abridged, even in a national emergency. The Federal Government also stated that they **will not** call in the military or suspend freedom of peaceful and lawful assembly/protests.

Specifics

Emergency Measures Regulations

- The Federal Government has stated that the RCMP have primary responsibility and are the national lead in enforcing these Emergency Measures Regulations and may enforce provincial and municipal laws for the purposes of the Regulations. However, the Federal Government advised that the RCMP will work in coordination with POJ to effectively enforce these Regulations, where they apply to all peace officers across Canada.

Provision	Definition	Enforcement Authority
1) Designate critical infrastructure and protected places.	Critical infrastructure means the following places, including any land on which they are located: • Airports, aerodromes, heliports, harbours, ports, piers, lighthouses, canals, railways stations, railways, tramway lines, bus stations, bus depots, and truck depots. • Infrastructure for the supply of utilities, such as water, gas, sanitation, and telecommunications. • International and interprovincial bridges and crossings. • Power generation and transmission facilities. • Hospitals and locations where COVID-19 vaccines are administered. • Trade corridors and international border crossings, including ports of entry, ferry terminals, customs offices, bonded warehouses, and sufferance warehouses. The following are designated as protected places: • Critical infrastructures as defined above. • Parliament Hill and the Parliamentary Precinct. • Official residences. • Government and defence buildings. ○ Note: MLA and MP constituency offices are not included as government buildings.	All Peace Officers, including RCMP

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	• Monuments, including war memorials and cenotaphs, and any objects associated with honouring or remembering people who died as a consequence of a war, including a cemetery. • Any other places as designated by the Minister of Public Safety and Emergency Preparedness. ***What does this mean for Police?*** • The Federal Government has clarified that police can proactively target-harden critical infrastructure and designated protected places in anticipation of unlawful assemblies.	
2) Prohibit public assembly expected to lead to a breach of the peace (unlawful assembly).	A person must not participate in a public assembly that may reasonably be expected to lead to a breach of the peace by: • The serious disruption of the movement of persons or goods or the serious interference with trade; • The interference with the functioning of critical infrastructure; or • The support of the threat or use of acts of serious violence against persons or property. A person must not travel to or within a place where an unlawful assembly is underway. **<u>Travel Exemptions:</u>** • People who reside, work, or are moving through the assembly area for reasons other than participating in or facilitating the assembly are exempt; • People who, within the assembly area, act with the permission of a peace officer are exempt; • A peace officer is exempt; and • A government employee or agent acting in the execution of their duties is exempt. A person must not use, collect, provide, make available, or invite a person to provide property to facilitate or participate in any unlawful assembly or for the purpose of benefiting anyone who is facilitating or participating in such an activity. ***What does this mean for Police?*** • Police can prohibit people from travelling to participate or facilitate the occurrence of an unlawful assembly, mindful of the applicable travel exemptions noted above.	All Peace Officers, including RCMP
3) Prohibit a person from causing a minor (person under 18) to be involved in such an assembly.	A person must not cause a minor to participate in an unlawful assembly. Please note that there are currently no prohibitions related to other vulnerable persons, such as elders or people with disabilities. A person must not cause a minor to travel to or within 500 metres of an unlawful assembly. ***What does this mean for Police?*** • Police can prohibit minors from attending or travelling to an unlawful assembly, mindful of the applicable travel exemptions noted above.	All Peace Officers, including RCMP
4) Prohibit entry in Canada by a foreign national for the	A foreign national must not enter Canada with the intent to participate in or facilitate in an unlawful assembly.	All Peace Officers, including RCMP and CBSA

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purposes of participating in such an assembly.	**<u>Prohibited Entry Exemptions:</u>** • A person registered as an Indian under the *Indian Act;* • A person recognized as a Convention refugee or similar under the Immigration and Refugee Protection Regulations; • A person issued a temporary resident permit under the Immigration and Refugee Protection Act or seeks to enter Canada as a protected temporary resident under the Immigration and Refugee Protection Regulations; • A person who seeks to enter Canada for the purpose of making a claim for refugee protection; • A protected person; • A person whose presence in Canada is in the national interest. ***What does this mean for Police?*** • Police can assist CBSA with prohibiting a foreign national from entering Canada who intends to participate in or facilitate an unlawful assembly, mindful of the applicable entry exemptions noted above.	
5) Direct that persons make available essential goods and services if directed to do so by the Commissioner of the RCMP.	Any person must make available and render the essential goods and services requested by the Minister of Public Safety and Emergency Preparedness, the Commissioner of the RCMP, or a person acting on their behalf for the removal, towing, and storage of any vehicle, equipment, structure, or other object that is part of a blockade. Any request made for such essential goods and services may be made in writing or given verbally by a person acting on their behalf. Any verbal request must be confirmed in writing as soon as possible. Requests for such essential goods and services must be complied with the day referred to in the request, earlier than the day on which the declaration of the public order emergency expires or is revoked, or earlier than the day these Emergency Measures Regulations are repealed. ***What does this mean for Police?*** • Police can require individuals and companies to provide essential goods and services for towing, removing, and storing blockade vehicles, equipment, or other objects immediately. • The RCMP confirmed that the RCMP Police Commissioner has delegated these powers to the Commanding Officer of RCMP "E" Division, who may further delegate these powers to Gold Commander Officers.	Persons with authority delegated by Federal Publi Safety Minister or the Commissioner of the RCMP (delegated to E-Div CO)

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Compliance	**Peace Officers:** In the case of a failure to comply with these Emergency Measures Regulations, any peace officer (as defined in the *Criminal Code* and including the RCMP, conservation officers, and highway patrol officers) may take the necessary measures to ensure the compliance with these Regulations and with any provincial or municipal laws and allow for the prosecution of failure to comply. **Contravention of Regulations:** In the case of a failure to comply with these Emergency Measures Regulations, any peace officer may take the necessary measures to ensure the compliance and allow for the prosecution for that failure to comply. **Fines and Imprisonment:** • Summary Conviction: A fine not exceeding $500 or imprisonment for a term not exceeding 6 months, or both. • Indictment: A fine not exceeding $5,000 or to imprisonment for a term not exceeding 5 years, or both.

Emergency Economic Measures Order

- The Federal Government advised that this Economic Measures Order currently only applies to Ottawa and its enforcement is led by the RCMP and CSIS. However, the RCMP advised that it is willing to work with POJ across the country to enforce this Order if necessary.

Provision	Definition	Enforcement Authority
1) Prohibit individuals and entities from engaging in financial transactions supporting activities prohibited by the Emergency Measures Regulations.	**Requirements:** • Any entity (corporation, trust, partnership, fund, unincorporated association or organization, or foreign state) must cease dealing in any property that is owned, held, or controlled by a designated person (any individual or entity that is engaged in activities prohibited by the Emergency Measures Regulations), or a person acting on behalf of a designated person. • These entities must cease facilitating any transaction related to prohibited activities in the Emergency Measures Regulations or fund people involved in unlawful assemblies. • Banks and other financial institutions must cease providing financial services intended to fund unlawful assemblies. • Vehicle insurance providers must cease providing any financial or related services to vehicles being used in an unlawful assembly. This does not apply to insurance policy that was valid prior to the Public Order. **New Tools for Financial Institutions and Police:** Requires banks and other financial entities, such as crowdfunding platforms, payment service providers (e.g., PayPal), insurance companies, and crypto exchange to: • Review (and continually monitor) to see if they possess/control the property (i.e., bank accounts, cryptocurrencies, and other assets) of a person involved in the unlawful public assemblies. • Freeze/suspend their account, vehicle insurance, crypto wallet, lending products and investments. No court order is needed. • Cease providing them financial services or facilitating transactions. • Register with and report suspicious transactions to FINTRAC. • Without delay, disclose to the RCMP or CSIS the existence of property of a person involved in the unlawful assemblies and any information about a transaction or proposed transaction.	RCMP and/or CSIS, but Peace Officers may take the necessary measures to ensure compliance (e.g., report suspicious activity to RCMP or CSIS)

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- Unfreeze their account, crypto wallet, lending products and investments if they are no longer involved in unlawful assemblies.

Transport Canada Support:
Transport Canada offers a Strategic Enforcement Strategy for consideration by police services, local governments and transportation authorities of jurisdiction, cities, and provinces with respect to illegal activity involving commercial motor vehicles as it relates to the Economic Measures Order. This strategy involves two key elements:

- Communications
  - Communicating clearly and directly to protestors (and to Canadians) about the illegal activities at play – and their impact – could incent compliance and "peel off" some trucks once their owners realize the potential economic costs and risks. Transport Canada has provided the provinces and territories with suggested key messages.
- Enforcement
  - Police can issue tickets for each vehicle in contravention of provisions; conduct surveillance, gather plate numbers, and driver information; and tow, impound, and in some cases cease implicated vehicles.
  - Provincial transportation authorities can support local law enforcement in managing vehicle flows by conducting roadside safety and emissions inspections with maximum penalties for infractions; use or establish provincial emergency legislation to create additional offences for illegal blockades; and assess surveillance data to determine if further investigations are necessary.

Duty to Disclose:

- Federal, provincial, or territorial institutions (including the RCMP) must disclose at their discretion any information with financial entities for purposes of the Order (e.g., name and address of a driver participating in an unlawful public assembly).

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